

*Subject to Approval by the Interim Committee*

**Legislative Council  
Committee on Energy  
September 1, 2004  
House Majority Caucus Room--Statehouse  
9:30 a.m.**

The meeting was called to order by Cochairman Senator Brent Hill at 9:30 a.m. Other committee members present were Senator Laird Noh, Senator Joe Stegner, Senator Elliot Werk, Cochairman Representative George Eskridge, Representative Maxine Bell, Representative Bert Stevenson, Representative Steve Smylie and Representative Chuck Cuddy. Senator Sheila Sorensen was excused.

Others present included LeRoy Jarolimek; Russ Hendricks, Farm Bureau; Daniel Kunz, U.S. Geothermal/Raft River Resource; Russell Westerberg, PacifiCorp; Glen Pond, Utah Power; Scott Peyron, Scott Peyron and Associates; Roy Eiguren, Givens Pursley; Neil Colwell, Avista; Ron Williams, ICUR/Mtn View Power; Rich Hahn, Idaho Power; Judy Hyde, Bear Lake County; Teresa Hill, Stoel Rives; Pike Teinent, ESG, LLC; Lynn Tominaga and Brenda Tominaga, IIPA; Dar Olberding, Stephen Voorhees, Rich Rayhill and Stan Boyd, Ridgeline Energy; Roald Doskeland, Windland, Inc.; Marsha Smith, Paul Kjellander, Laura Nelson and Gene Fadness, Idaho PUC; Andy Brunelle, U.S. Forest Service and Gerald Fleischman, Idaho Energy Division. Legislative Services staff present were Mike Nugent and Toni Hobbs.

After opening remarks from the cochairmen, **Mr. Paul Kjellander, PUC**, introduced Ms. Laura Nelson. She is the new policy advisor for the PUC replacing Mr. Bill Eastlake who retired.

**Senator Noh** moved that the minutes from the last meeting be approved. **Representative Stevenson** seconded and the motion carried.

**Mr. Roy Eiguren representing Sempra Energy Resources**, was introduced to discuss a proposed coal fired energy plant in the Glenns Ferry area. **Mr. Eiguren** explained that this plant is in the very early stages of a feasibility study to determine whether or not it would be feasible to move forward with a coal plant located in that area. This study will involve several very comprehensive analyses on a variety of issues including the environment and interconnection. Until those studies are complete, the company will not make a decision on whether or not to commit to the plant. If a commitment is made, the company will be prepared to answer more specific questions. He indicated that the feasibility studies are not

contemplated to be finished until sometime next year.

**Mr. Eiguren** stated that the company has an option to purchase approximately 1,100 acres in Elmore County. The site is located in the Swiss Valley of the Snake River, six miles east of Glens Ferry. It is a rail remote site that would connect to nearby rail as well as high voltage transmission infrastructures. Currently, the study is looking at a plant that could be up to 750 megawatts in size. **Mr. Eiguren** said that this would generate enough electricity to supply 750,000 homes. The plant would burn low sulfur coal mostly from Wyoming and Montana. The final size and plant configuration, according to **Mr. Eiguren**, will be determined at the end of the study.

At Sempra's request, Idaho Power Company is conducting a feasibility study regarding interconnection to their transmission grid. If the interconnection is viable, then power can be wheeled to customers in Idaho as well as elsewhere in the Pacific Northwest.

**Mr. Eiguren** noted that the project requires approximately 9,500 acre feet of water per year. To meet that demand, **Mr. Eiguren** said that Sempra is evaluating the potential to purchase water rights and to transfer those water rights to the project. The plant would be a zero discharge facility making prudent use of the water that would come to it, as well as protecting the Snake River.

**Mr. Eiguren** explained that Sempra is prepared to use the best available technology to control emissions and particulates and would meet all federal and state standards. The design of the control systems that Sempra would use would be defined as a result of the feasibility study. **Mr. Eiguren** stressed that there have been substantial advances in the technology associated with coal burning plants and if this plant were to be built, it would be state of the art technology.

**Mr. Eiguren** said that if a plant of this size were to be built in Idaho, preliminary calculations of the economic benefits to the state show that it would bring about \$1 billion in investment, it would create an average of 1,000 construction jobs and 100 well paid jobs to operate the plant. Preliminary estimates relative to the tax impacts are that such a plant would generate approximately \$30 million per year in sales tax revenue during the construction period of 3 ½ to 4 years, \$12 million in local property taxes and \$12 million in state taxes during commercial operation.

According to **Mr. Eiguren**, the plant would lessen the state's and the Pacific Northwest's reliance on volatile natural gas supplies. In the opinion of Sempra, the price of coal is more stable and relatively lower than natural gas. It is their belief that the plant would provide Idaho, as well as the Pacific Northwest, with a source of affordable, efficient and reliable power 24 hours a day, seven days a week.

**Mr. Eiguren** explained that Sempra Energy Resources develops, owns and operates power plants throughout the country. It is one of several non-utility companies owned by Sempra Energy, a Fortune 500 company located in California. Sempra Energy owns two utilities; San Diego Gas and Electric and Southern California Gas Company that serves Los Angeles and areas south of Los Angeles. **Mr. Eiguren** noted the Sempra Energy Resources has plants in operation or in construction in Nevada, California, Arizona, New Mexico and Texas and has established a noteworthy track record of working with the communities and local agencies in terms of caring for the environment and dealing with local concerns. The company is building a plant in Mexico to provide power for California with emission controls beyond regulatory standards.

In closing, **Mr. Eiguren** stressed that the company is just beginning the process of conducting the feasibility study and has been actively visiting with interested parties to learn about their concerns regarding the location of such a facility. There are a variety of significant analyses being conducted as a part of the feasibility study and anticipate completion early next year. At that time it will be decided whether or not to proceed with the plant and the process of applying for the appropriate permits and other regulatory approvals will begin.

**Representative Smylie** asked for more information on the water rights the company plans to acquire and the benefits to the state and to the local communities since he assumes most of this power will go to California. **Mr. Eiguren** stated that this plant is not being built to serve the needs of California. The planning assumptions are based on the belief that the power will be needed both in the state of Idaho, as well as the Pacific Northwest. **Mr. Eiguren** added that the various integrated resource plans filed by the public utilities of the state of Idaho indicate they plan to acquire the output of coal resources in about ten years. In response to **Representative Smylie's** question regarding benefits to the state, **Mr. Eiguren** clarified the belief that there would be up to \$1 billion in investment in the form, not only of the plant itself, but other infrastructures associated with it. The company believes there would be a very well paid and highly motivated work force of at least 100 people on a full time basis that would live in the area. There would also be substantial tax revenues provided from the construction phase through to operation.

In reference to the question about water rights, **Mr. Eiguren** explained that Sempra clearly understands the sensitivity associated with the acquisition of water in the state of Idaho. He added that they are committed to acquiring the water rights necessary to operate the facility and that the company is engaged in active discussions with a variety of parties about doing so.

In response to a question from **Senator Noh** regarding the number of acre feet of water required to run the plant, **Mr. Eiguren** clarified that it has been refined from 15,000 to 9,500. He added that 9,500 is presumed to the maximum amount

needed.

**Senator Noh** asked whether the company has had any discussions with county commissions, cities or local governments that are located down wind from the plant. **Mr. Eiguren** said that the company has had discussions with city officials and county commissioners in Elmore County and added that part of the ongoing dialogue will include down wind areas all the way across the southern plain. He noted that the company has retained Scott Peyron and Associates, a consulting firm that specializes in community outreach and involvement in developing a plan.

**Representative Stevenson** asked exactly where the plant would be located. **Mr. Eiguren** explained that the plant will not be visible from the freeway but it is along the river between Glens Ferry and Bliss on the south side.

**Representative Eskridge** asked for insight as to why the company does not locate the plant at the mine site of the coal. **Mr. Eiguren** said that in siting new energy generating stations, it is his understanding that there is economic value, as well as operation value in operating coal plants closer to load centers. This location is closer to load centers in both Idaho and other parts of the Pacific Northwest than would be the case in Wyoming or Montana where the coal is mined.

**Representative Cuddy** added that it was his understanding that transmission from Colstrip in Wyoming is getting to capacity and without major rebuilding it will be difficult to get power out of there to the load centers, particularly in the west. **Mr. Eiguren** agreed. He noted that it is public record that Bonneville Power Administration's existing lines from Colstrip to the Pacific Northwest are at full capacity and that new construction will be necessary to meet new generation. **Mr. Eiguren** said that Sempra is working with Idaho Power to determine whether their existing system that is located near the proposed location would have the transmission capacity available. **Representative Eskridge** commented that when Colstrip was built originally, an argument was made that the line was too big and would never be filled and currently there is more demand on the Colstrip transmission lines than anyone ever thought. The day it was energized it was filled to capacity with electric energy transfers.

**Representative Bell** said that she has received information from a doctor in the Jerome area that is very concerned about emissions down wind from such a plant. The information she has received from this doctor appears to very up to date on the dangers of such emissions. She asked whether the company will have more information for these areas regarding the new technology the plant will use to reduce such transmissions. **Mr. Eiguren** said that the plant will use state of the art clean coal technology that has substantially lower emission rates than coal plants in the past. He added that the country has invested an enormous sum of money with the Department of Energy to developing cleaner coal facilities. He noted that he would provide more information to committee members on these new

technologies so that it can be passed on to their constituents.

**Cochairman Brent Hill** explained that one of the main reasons for today's meeting was to discuss tax incentives regarding development of alternative energy. He introduced **Mr. Daniel Kunz, President of U.S. Geothermal** to testify on this subject. **Mr. Kunz** explained that U.S. Geothermal is seeking to develop a property in Idaho called the Raft River Resource. This is a geothermal resource near the town of Malta. He stated that Idaho has an opportunity to elevate the status and importance of renewable energy projects but is handicapped compared to surrounding states. The state of Nevada has renewable portfolio standards that require utilities to purchase a percentage of future power supplies from renewable sources. He noted that a sales tax exemption that the committee has discussed would, in his opinion, be a good way for Idaho to underscore the importance of renewables.

**Mr. Kunz** said that the geothermal power plant operates at the same efficiencies as the coal plant that was discussed earlier. The Raft River Valley has potentially 100 to 200 megawatts of geothermal power available. Since this is a new plant and a newer investment, the risks are very high. A tax exemption or tax credit would be very helpful in getting such a plant off the ground. **Mr. Kunz** continued that a geothermal plant produces no carbon generation and no greenhouse gases. Another benefit, according to **Mr. Kunz**, is that once the power plant is constructed and the capital costs are paid, these plants have no fuel costs. They operate at a very modest cost in the future. In his opinion, renewables such as geothermal, wind, biomass and solar are the low cost power sources of the future.

In response to a question from **Representative Cuddy**, **Mr. Kunz** said that installation costs per megawatt are about \$2 million.

**Mr. Leroy Jarolimek, Wind Advantage**, testified in favor of a sales tax exemption for renewable energy projects. He installed a wind turbine on his farm for net metering last year and has applied to the USDA for a grant that provides up to \$500,000 to help offset the initial cost of putting in two large turbines. One is 1 ½ megawatts. Without a sales tax exemption, sales tax on a project negates what is gained from the federal government grant. He said that it is important to open the door for farmers to be able to develop the resource to help support the grid with a non-polluting type of energy.

**Mr. Jarolimek** explained that getting a power purchase agreement with Idaho Power is very difficult for small producers. It is almost impossible for a farmer to be able to afford such negotiations. To put the two turbine project on his farm, the cost is about \$1,500 per kilowatt.

**Representative Stevenson** asked about the reliability of the wind turbine in

existence on his property. **Mr. Jarolimek** said that it has been online about three months and has produced more energy than was expected for the summer months. Within two hours of going online they had a credit and have about 1,600 kilowatts of credit for power. He added that his turbine has worked very well with the grid.

**Representative Eskridge** asked for more information regarding the power purchase agreement and Idaho Power. **Mr. Jarolimek** explained that Idaho Power's power purchase agreement contains a 90/110 window. This requires the producer to estimate for two years ahead the amount of power they will produce monthly. If the actual production turns out to be below 90% or above 110%, the producer does not receive the PURPA rate and gets 85% of the Mid-Columbia base rate. According to **Mr. Jarolimek**, Idaho Power could not even estimate this accurately.

**Mr. Jarolimek** explained that another issue in the power purchase agreement is that Idaho Power wants to claim the green tags as their own even though the farmer is producing it. The farmers feel that since they are producing the power, they should be able to market their green tags on their own.

In response to a question from **Representative Eskridge**, **Mr. Jarolimek** said that he is keeping weekly records of the power generation from his wind turbine. He stated that it would be very difficult to keep hourly records but that he could keep daily records and would provide that for the committee. **Representative Stevenson** asked how close his turbine is to maximum production. **Mr. Jarolimek** said that it is producing 15 kW at this time. He explained that once the blades are adjusted, after the break in period, it should easily produce the 20 kW maximum.

**Mr. Jarolimek** clarified that the 90/110 issue he discussed earlier is only for large commercial projects. His current wind turbine is on net metering so, at this time, he does not have to make those estimates. With net metering, all of the electricity he generates goes first to his use and if there is any extra production, that goes on to the grid and he gets paid the retail price for it. In response to a question from **Representative Smylie**, **Mr. Jarolimek** explained that if he was required to do the 90/110 estimation it would be very difficult because the wind speed is quite variable.

**Senator Werk** asked why the 90/110 requirement exists. **Mr. Kunz, U.S. Geothermal**, said that this requirement has been presented to his company as an attempt by Idaho Power to have an ability to firm this power into their planning base. In other words, Idaho Power is saying that the 90/110 requirement allows them to know that power will fall within that range and if it does not, there are other economic solutions.

**Mr. Rich Hahn, Idaho Power Company**, explained that in cogeneration of small

projects there are basically two different routes to go from a contract standpoint. These is non-firm energy and firm energy. Non-firm energy is typically energy generation that would be classified as intermittent and non-dispatchable. **Mr. Hahn** stated that Idaho Power has typically classified wind energy as non-firm in the past. Idaho Power has to be able to create energy instantaneously and they have to be able to have the resource available to support the load necessary each and every day. There are forms of energy that are not considered firm enough to meet that expectation. Due to that fact, there is a different pricing mechanism that is the known as the mid-Columbia for non-firm energy.

**Mr. Hahn** continued that firm energy is energy that can be counted on and rates are in the tariff that the PUC has approved for firm energy. That firm energy can be either a levelized or non-levelized contract. So that wind energy producers can have the opportunity to be paid the firm energy price, Idaho Power offers the 90/110 requirement as a way to do this. To meet this requirement, the wind producers may have to find ways to firm that up.

In response to a question from **Senator Stegner**, **Mr. Hahn** explained that currently the firm energy price and non-firm energy price are very close but it depends on the season. Usually the non-firm price is much lower except in July and August.

**Representative Eskridge** asked whether a supplier who has contracted with Idaho Power to supply firm power does not provide that power would be penalized. **Mr. Hahn** said he would assume that to be correct. In his opinion, if Idaho Power has an obligation to serve the load and is counting on that resource to fill the load there would be a provision in that contract for a penalty because Idaho Power would have to go to the market or utilize other resources to serve that load obligation.

In response to a question from **Senator Werk**, **Mr. Jarolimek** stated that if he had a power supply contract with the 90/110 requirement and knew that his production was going to be over 110%, he could conceivable slow down the power production for the remainder of the month but when the wind is blowing, he would want to produce as much power as possible to make up for shortages at other times. **Mr. Hahn** explained that the 90/110 requirement pays the supplier the firm rate for power produced in any amount between 90% and 110% of the estimate. The supplier only gets the lower price for the amount over the 110% estimate. If they produce 120%, they get paid the firm price for 110% and the lower price for the other 10%. If the supplier produces under the 90% estimate there is a penalty based on what Idaho Power has to do to get to 90%. This would require Idaho Power going to the marketplace to get that power.

**Senator Werk** asked if Idaho Power can sell the excess power produced over the 110% estimate on the spot market. **Mr. Hahn** said that is what happens but the price they get for that power is the spot market price less transmission.

**Mr. Brian Jackson, Renaissance Engineering and Design**, stated that he is working with **Mr. Jarolimek** and others to get their wind projects off the ground. Currently, his company is negotiating a power purchase agreement with PacifiCorp. **Mr. Jackson** explained that PacifiCorp's contract looks for a minimum threshold of 50% and there is no penalty if more than 110% is produced. In **Mr. Jackson's** opinion, the utilities are bringing in the firm and non-firm argument to something that doesn't really matter to them. It matters intensely to the farmers because a ten megawatt on their land, in many cases, can save the farm. On the other hand, a ten megawatt project on Idaho Power's grid is really insignificant. Another frustration to the farmers is that the federal PURPA law requires the utility to purchase the power at avoided cost rates. By adding other terms, the utilities are essentially killing these projects. The risk of the penalty, according to **Mr. Jackson**, of making up the difference between 80% and 90% is too great and uncertain. This also makes financing very difficult.

**Mr. Jackson** noted that the small PURPA projects would be built in Idaho to serve Idaho loads. Of all of the renewable energy projects that happen, the PURPA projects would go directly to serve the Idaho customer. This is probably not always the case with the large projects.

**Representative Eskridge** commented that while he agrees that one ten megawatt project is probably no big deal to the utility, several ten megawatt projects become much more serious. In his opinion, ratepayers would be the ones who end up paying for the over or under estimation of power production. **Mr. Jackson** stated that the interesting thing with distributed generation is that each one on its own does not make a difference but once they are distributed across the grid, the overall reliability of the system is increased. In his opinion, the risk is greater for the ratepayers with the existing system because of the price of the resource is variable. From **Mr. Jackson's** perspective, the best deal going for Idaho ratepayers today is wind projects, big or small. This is because it is one of the only types of power production that does not have a fuel risk associated with it.

In response to a question from **Representative Cuddy**, **Mr. Jackson** explained that PacifiCorp is defining firm power for their contract as at least 50% of the estimated power production. He agrees that 50% is not difficult to meet but the principle behind it is wrong. Everything that is produced by the project will go to the utility. **Representative Cuddy** asked if there are other options for these projects regarding where they can negotiate power purchase agreements besides Idaho Power. **Mr. Jackson** said that the rules of PURPA allow energy to be sold to any utility in the state. Wheeling charges have to be paid to get the energy from the project generation point to the delivery point. He agreed with **Representative Cuddy** that such projects can go to whatever utility offers the best contract, including out of state. **Mr. Jackson** explained that the essence of the PURPA projects that his company has been evaluating is to figure out the best term with the utility in the



service territory of the project itself.

**Mr. Russ Hendricks, Farm Bureau** spoke to the committee regarding the tax incentives for renewable energy projects. He noted that the members of the Idaho Farm Bureau believe strongly that the sales tax exemption would provide a greater advantage to them as small farmers and ranchers and the types of projects that they would develop. Some of the reasons for this include:

- C a sales tax exemption is much simpler to use and understand
- C less record keeping and paperwork is involved with a sales tax exemption
- C an exemption up-front is worth a lot more to a farmer or rancher than a credit to be used over a period of time
- C a sales tax exemption would free up a lot of capital up-front which would allow for a lower debt load and would mean lower payments when finance the project
- C bankers would be more willing to loan on these projects

**Mr. Hendricks** used the following example to compare a 6% investment tax credit versus the 6% sales tax exemption.

**A dairyman who has 1,000 cows will spend \$750,000 on an anaerobic digester that will produce 233 kW of electricity.**

#### **6% Investment Tax Credit Example (HB760)**

Qualified Equipment Cost	\$600,000
Sales Tax on Equipment	36,000
Cost of Labor	<u>150,000</u>
Total Cost of Project	\$750,000
Loan Payment (assuming 20% Down, 20 year term @ 8%	\$ (5,259.54)
Allowable Investment Tax Credit (6% of Equipment)	36,000.00
Net Taxable Income needed to offset ITC in one year (at 7.8% marginal tax rate)	936,000.00
Average Net Taxable Income needed over 14 year carryforward to use full ITC	79,000.00
Actual Value of ITC spread over 14 year carryforward (Present value 8%)	<b>\$ 21,199.47</b>

#### **6% Sales Tax Exemption Example**

Equipment Cost	\$600,000
Labor Cost	<u>150,000</u>

Total Cost of Project \$750.000

Actual value of Sales Tax Exemption	\$36,000.00
Loan payment (assuming 20% down, 20 year term @ 8%	(5,018.64)
Extra Cash Flow per month with Sales Tax Exemption	\$ 240.89

**Mr. Hendricks** explained that not only is the sales tax exemption worth more to the farmer up front, it also frees up valuable cash flow each month from debt service and also dramatically reduces paperwork, tax recordkeeping and preparation time.

He noted that the sales tax exemption will actually increase revenues to the state since it will promote the development of projects that might not otherwise be built.

**Mr. Hendricks** said, he understands the reluctance by the legislature to add another tax exemption but that, in his opinion, there is a fundamental difference between granting a sales tax exemption on an industry that does not currently exist in the state as compared to an exemption on an already existing industry that would actually take money from the general fund.

**Representative Smylie** asked about exempting only equipment specific to renewable energy projects from sales tax would be possible. **Mr. Hendricks** said that there would be a tremendous difference over the range of renewables energy types as to what the benefit of this would be. Anaerobic digesters, for example, use many off the shelf parts that could not be considered specific to only digesters.

In response to another question from **Representative Stevenson**, **Mr. Hendricks** noted that they would like forms of energy produced by digesters, including biodiesel fuel to be included in whatever incentives are offered.

**Senator Stegner** explained that he was not in favor of broadening the sales tax exemptions of the state, even for renewable energy. He encouraged the Farm Bureau to examine the tax policy of the state. He also stated that it would appear that a sales tax exemption may be, in the short run, more valuable for individual operators. In his opinion, if the state were to broaden tax base for sale tax and at the same time reducing the rate, this would be very advantageous to agriculture by reducing property tax burdens to farmers. By encouraging this exemption, in **Senator Stegner's** opinion, the Farm Bureau is sending a message that they are not particularly interested in pursuing a reexamination of the tax policy of the state. Adding a sales tax exemption for renewables, according to **Senator Stegner** will slow the reexamination process down and in the long run will harm agriculture. In his opinion, a shift from property tax to sales tax benefits agriculture by shifting to a tax that they only pay when they are expanding and when times are good. **Mr. Hendricks** stated that Farm Bureau has considered some of this and he did not intend to give the impression that they are not in favor of some sort of reform of the state sales tax policy. He added that they would be very supportive of a shift from

property tax to sales tax. However, the Sales Tax Exemption Task Force last year did not discuss this as a possibility. It was more of a discussion of broadening the base while lowering the rate to remain revenue neutral. He noted that Farm Bureau would be interested in such a possibility. **Mr. Hendricks** said that support for this sales tax exemption for renewable energy is an attempt to work within the existing system.

**Senator Hill** cautioned that any decrease in sales tax could have an effect on the counties and put a larger burden on property tax as a result. **Mr. Hendricks** agreed with that but noted that since renewable energy does not exist as an industry in Idaho currently, neither the state nor the counties are receiving any income from that.

**Representative Eskridge** reminded the committee that one of the objectives, in addition to price stability and supply reliability of renewables, was the favorable impact these renewable resources would have on the counties. These impacts were thought of as property tax revenue, share of the sales tax revenues, employment and so on. He said that, in his opinion, if the state could provide that same kind of motivation as a sales tax exemption would, through other types of incentives the counties would receive a greater benefit. **Mr. Hendricks** reiterated that the investment tax credit would not be as much of an incentive to Farm Bureau members as a sales tax exemption would be and in his opinion, less projects would be built. Since there is zero sales tax being collected at this point from renewable projects, there would be no reduction in the future revenue. The state would get the traditional property tax revenue, income tax revenue and so on. He continued that transferability of the investment tax credit and the production tax credit would be somewhat helpful but since 100% of the credit is not allowed when it is transferred, the value is reduced.

**Mr. Steve Voorhees, Ridgeline Energy**, commented that, in his opinion, a sales tax exemption is essential to wind development in Idaho. All of the states surrounding Idaho have some type of sales tax exemption as well as other incentives. In his opinion, Idaho has great potential for wind energy development including the land, wind resource and a great transmission infrastructure due to the Snake river.

**Representative Cuddy** stated that a company could build a plant in the state of Washington today, take advantage of their sales tax exemption and still negotiate a contract with Idaho Power to sell the power in Idaho. **Mr. Voorhees** agreed.

**Senator Noh** asked which neighboring states have sales tax exemptions. **Mr. Voorhees** explained that states surrounding Idaho either have no sales tax at all, such as Oregon or they exempt renewables.

In response to a question from **Representative Cuddy**, **PUC Commissioner Marsha Smith** explained that avoided cost does not take into account the sales tax

differential of surrounding states as compared to Idaho. She said that the avoided cost rate that is set by the commission for utilities looks at the surrogate avoided resources (SAR). In other words, what is the next plant that a regulated utility would build and what would the cost of that plant be. The idea is that a private developer would be paid the same amount that the utility would pay for development of the plant. She added that the avoided cost rate is only for projects that are ten megawatts or less.

**Mr. Rich Rayhill, Ridgeline Energy** commented that to build a plant in the state of Washington and sell the power to Idaho Power under PURPA is a possibility. The limit would be ten megawatts. He noted that due to lower power prices in the west and difficulties with construction, economies of scale associated with large projects are necessary to make such things happen. **Mr. Rayhill** added that Ridgeline has a policy of working with farmers on private ground and if companies go out of state to build projects, the state of Idaho, Idaho Counties nor Idaho farmers, will receive any of the economic benefits associated with such a project.

**Mr. Rayhill** stated that a sales tax exemption is a one time payment while property tax is received by the counties every year. It is like an annuity. He explained that Montana and Oregon have no sales tax, Washington, Nevada and Wyoming have exempted the sales tax on energy projects for a certain period of time and Utah, last year, passed legislation to exempt sales tax on renewable energy equipment.

**Mr. Rayhill** noted that PacifiCorp, in a press release, has listed seven companies in Wyoming, Utah, Nevada and Oregon, none in Idaho, with whom they want to discuss possible wind projects. Idaho Power has recently released a draft of their long range planning document. In that draft, it is indicated that Idaho Power is going to go for 100 megawatts of wind power to be only line by 2006, another 100 megawatts of wind power to be online by 2008 and 150 additional megawatts of wind/renewable energy power online by 2010. This will be done through bid, just as PacifiCorp did and, according to **Mr. Rayhill**, Idaho projects will be at a 5% or 6% disadvantage depending on our sales tax rate.

**Representative Eskridge** asked why the Cottrell Mountain is going ahead with their 250 megawatt wind project in Idaho without any existing incentives. **Mr. Roald Dospeland, Windland, Inc.**, explained that they are working on two projects in Idaho due to the huge resource that is available. In his opinion, Idaho could have \$1 billion worth of investment in wind projects.

**Mr. Dospeland** noted that the Cottrell project will generate about \$2.4 million per year in tax revenue and an initial outlay of about \$18 million during construction as well as jobs both during and after construction.

**Mr. Dospeland** explained that wind is actually a very steady energy source. From

year to year the energy from a wind project only varies from 5% to 10%. He explained that wind also works very well with hydro power and should be encouraged in Idaho.

In **Mr. Doskeland's** opinion, a sales tax exemption would help wind projects due to the fact that they have a large up-front cost. As developers, Windland is hoping for such incentives down the road. He continued that an investment tax credit and a production tax credit would be helpful but, in his opinion, the sales tax exemption would provide the most incentive to wind developers because it helps with the up front costs.

In response to a question from **Representative Stevenson**, **Mr. Doskeland** said that it was their hope to sell the power from the Cottrell plant to Idaho and there is existing demand for it to be sold here.

A letter from the Idaho Association of Counties was distributed to the committee in support of a sales tax exemption for renewable energy projects.

**Mr. Voorhees** emphasized that PacifiCorp's RFP states they are looking for over \$1.4 billion in renewable energy with a large part of that coming from wind. In his opinion, Idaho will be out of the game without a sales tax exemption.

**Mr. Gerald Fleischman** announced that a fact finding tour for policy makers and interested parties will be held September 29, 30, and October 1, 2004 in southwestern Minnesota. This tour is sponsored by the Idaho Energy Division with funding from the U.S. Department of Energy.

**Mr. Fleischman** also distributed a handout showing the renewable portfolio standards for surrounding states including California and Arizona. He also distributed comments from Gary Seifert, a wind expert at INEEL asking the committee to consider sales tax relief for renewables to help even the playing field with surrounding states. He also stated the need for transferability. In his opinion, the ability to turn incentives into a commodity that others can use in the early lean years is essential. These handouts are available at the Legislative Services Office.

**Mr. Mike Nugent, Legislative Services Office**, distributed information from the U.S. Department of Energy showing incentives and exemptions that are offered by various states across the country. These are available at the Legislative Services Office and at [www.eere.energy.gov/state\\_energy/](http://www.eere.energy.gov/state_energy/)

The handout explains that tax incentives are as varied as the states that offer them. Most tax incentives are implemented through tax credits, allowances or deductions. A few states have expiration dates for their incentive plans and some limit the time the incentive is available after the installation or equipment purchase

date. **Mr. Nugent** noted that almost 20 states participate in some kind of tax incentives to encourage the use of renewable energy. Eligible technologies include solar and photovoltaic energy systems, geothermal energy, wind, biomass, hydroelectric and alternative fuel technologies. This handout includes a chart showing which states offer what types of incentives either income tax, corporate tax, property tax or sales tax. He cautioned the committee to remember the different tax structures of the various states. This could mean that while a state may not charge sales tax, another tax could exist to make up for it. Information on incentives offered by specific states is available at the Legislative Services Office.

**Senator Hill** noted that last year, this committee decided that some state tax incentives would be helpful in promoting the development of renewable energy in the state. Last year, legislation was put together for an investment tax credit and a production credit. This legislation was vetoed by the Governor due to timing. There is some assurance that would not happen this year. He stated that reintroducing this legislation is one option. Another option that has been discussed is a sales tax exemption. In his opinion, the simpler the incentive is, the better it will be from a regulation standpoint.

In **Senator Hill's** opinion, the sales tax exemption might be more difficult due to the legislative mood that some of the existing sales tax exemptions should be eliminated. There was very little resistance from legislators for the other two incentives.

The options available are:

- C An investment tax credit
- C A production credit
- C A sales tax exemption

**Representative Cuddy** noted that there are some new jobs tax credits in existence that were not in place last year. He added that local option sales tax would need to be addressed along with a sales tax exemption. **Representative Bell** said that, in her opinion, the local option tax was not part of the state's issue. That would be left up to the individual area to decide.

**Mr. Nugent** commented that the larger the corporation building the project, the more helpful an investment tax credit would be, while the smaller entities would see greater benefit from a sales tax exemption. In some cases, property tax exemptions have been the key factor in causing an entity to locate or not locate in a particular locale.

**Senator Hill** asked if the local privately owned utilities, coops and municipalities are currently exempt from property tax. **Mr. Nugent** said that coops were not but

municipalities were. In response to a question from **Representative Cuddy, Mr. Ron Williams** explained that the property tax bill that passed last year said that any thermal generating plant located within five miles of a city limits will have their property taxes apportioned locally. **Representative Cuddy** suggested looking at something similar to this where with large facilities property tax gets broken up throughout the grid.

**Representative Smylie** stated that Utah's law gives the sales tax exemption only on equipment used by renewables, not for the construction and it contains a sunset date. In his opinion, this would be a good way to model legislation for Idaho.

**Representative Eskridge** asked if this would differentiate between construction equipment and facility equipment. **Representative Smylie** explained that tools and other equipment used in construction would not be eligible for the exemption. In other words, a sales tax exemption could not be used on equipment the construction company could use on the next project.

**Representative Bell** commented that Idaho does not sunset other types of production exemptions. Since these projects will be ongoing and coming in slowly over a long period of time, she asked why sunset this instead of letting the projects develop at their own pace. **Representative Smylie** said that a sunset just gives the legislature the opportunity to review the success or failure of the incentives down the road. The sunset can be eliminated but it does allow for review.

**Representative Bell** agreed but cautioned that a sunset date of six years might discourage someone looking at developing a project in Idaho during the last year of the sunset. **Representative Eskridge** commented that the sunset is in place, not only to allow for re-evaluation of the effectiveness of the incentives to promote renewable projects but that down the road the hope is that renewable energy projects will become more affordable and incentives will not longer be needed.

**Representative Stevenson** added that, in his view, the incentives are just an attempt to jump start the industry and he would be in favor of a sunset.

**Senator Stegner** commented that he would not support legislation offering a sales tax exemption for renewable energy projects. It is his belief that the state should broaden the sales tax base and reduce the number of specific exemptions. He noted that the current equipment production sales tax exemptions that Idaho offers, in his opinion, have a long standing tradition with the general policy that the end product be taxed. Utilities are taxed in a different manner, sales tax is not charged and offering a sales tax exemption for these types of projects, in his opinion, will not be made up at the consumer level. He would discuss modifying that policy. **Senator Stegner** said that his was fully aware that coops and municipalities who do not pay income tax do not share in the benefits of any incentives being offered. In his opinion, it is more important to have tax paying entities grow in the state.

**Senator Stegner** stated that he has no objection to increasing the investment tax credit with a ten year sunset or with putting the incentive all on production by increasing the production tax credit to 6% without an additional investment tax credit.

**Representative Smylie** said that over the past two years this committee has been trying to find a way to provide the push that the renewable energy industry needs to get off the ground. In his opinion, renewable energy is the way of the future and existing utilities plan to include it in their portfolios over the next ten years. It is important that as many of those renewable projects as possible are located in Idaho instead of in out-of-state locations and providing incentives is the way to do that.

**Representative Smylie** noted that transferability does not offer a dollar for dollar benefit to the state. These credits are marketed and sold at a discount rate and allow people involved in industries that nothing to do with alternative energy production to buy those credits and to cut their income tax liability.

**Representative Smylie** agreed with **Senator Stegner's** reluctance to offer a sales tax exemption but sees offering such an exemption for renewable energy only, with a sunset date, as the best option available.

**Representative Cuddy** asked whether the PUC takes into account sales tax when they calculate PURPA rates for projects under ten megawatts. If a sales tax exemption is allowed for projects beyond ten megawatts, these projects would be able to negotiate for less cost in the power purchase agreement with the utility. In effect this will return back to the ratepayer including the time the utility tells the PUC that their melded rate would have been higher if sales tax was included, therefore, in his opinion, it is a benefit to the ratepayer. **Mr. Nugent** clarified that PURPA rates are based on avoided costs that do not take into account sales tax. **Ms. Laura Nelson, PUC** added that the avoided cost rate is based on the surrogate resource that is evaluated coming out of the integrated resource plan and sales tax could implicitly in those costs. She added that explicitly the PUC does not evaluate sales tax.

**Senator Noh** commented that one of the challenging aspects of the legislation last year was the amount of amending and changing that occurred in both the Senate and the House. This makes it difficult to know where to start with new legislation. **Senator Hill** agreed and stated that part of the reason for all of the changes was because the bills were put together just before the session started so this committee never had a chance to review them before they were presented to the legislature. It is important this year to get the legislation drafted and reviewed ahead of time.



After more discussion regarding whether to introduce legislation that offers a sales tax exemption, **Representative Stevenson made a motion that the committee initiate a sales tax exemption for renewable energy projects with an eight year sunset clause. Representative Bell seconded the motion.**

**Representative Stevenson** explained that, in his opinion, a sales tax exemption for renewables is different than others the state has put in place because the industry does not yet exist in Idaho. This is a way to help get the industry off the ground. **Representative Smylie** suggested working with the Tax Commission so that the rules for renewable energy would work with federal laws. He added that the legislation state specifically the exemption is just for renewable energy projects.

**Senator Stegner** stated that he would vote no on this motion. In his opinion, there is a strong likelihood that this will not pass and that will defer again any incentives for renewable energy. Income tax credits have support from both houses and there is a strong likelihood of getting that legislation signed by the governor this year. **Senator Hill** said that he shared that same concern.

**Representative Cuddy offered a substitute motion that two bills be drafted. One offering a sales tax exemption and one with an investment tax credit that is transferable.** In his opinion, the tax credit can be adjusted so that it is nearly equitable with the sales tax exemption.

**Senator Stegner** asked for clarification of the motion. **Representative Cuddy** explained that he would like to see an investment tax credit that is transferable so that there is some viability to it for the person who does not make any money. This, in his opinion, could be second bill the committee could look at if the sales tax exemption bill runs into difficulty. **Senator Stegner** asked whether the motion includes no further consideration of production tax credits. **Representative Cuddy** said that was correct and that his motion included transferability.

**The motion died for lack of a second.**

**Senator Stegner made another substitute motion for legislation offering an investment tax credit that is non-transferable at 5%. This would be an additional 5% to the existing 3% raising it to a total of 8% for renewable energy. Senator Noh seconded.**

**Representative Eskridge** asked why the production tax credit is not included in his motion. **Senator Stegner** said that he liked last year's legislation that included both the investment tax credit and the production tax credit and he would support that again. This motion makes the legislation simpler and more equitable with the total value investment tax credit versus the sales tax. He added that he would support a motion to reintroduce both bills from last year.

**Senator Noh made an amended substitute motion to reintroduce both bills from last year's session and to draft legislation offering a sales tax exemption for discussion purposes. Representative Eskridge seconded the motion.**

It was clarified that these three bills would be brought to the committee for further discussion. **Senator Noh** noted that it is not necessarily his intention that all three of these bill would be introduced to the legislature. They would be brought to this committee in draft form for discussion and refinement. This would also give the public a chance to see sales tax exemption legislation and to get their reaction.

**Senator Stegner** said that he would have not objection to further discussion of all three bills and would support the amended substitute motion. He withdrew his substitute motion. **Senator Noh** withdrew his second on the substitute motion.

**The amended substitute motion carried unanimously by voice vote.**

The meeting was adjourned at 2:50 p.m.